

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ROLAND MA,

11 v.
12 Plaintiff,

13 DEPARTMENT OF EDUCATION and
14 UNIVERSITY OF SOUTHERN
15 CALIFORNIA,

Defendants.

CASE NO. C19-1112-JCC

ORDER

16 This matter comes before the Court on the report and recommendation of the Honorable
17 Michelle L. Peterson, United States Magistrate Judge (Dkt. No. 9), and Plaintiff Roland Ma's
18 objections (Dkt. No. 13) and motion to strike (Dkt. No. 8). Having thoroughly considered the
19 parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby
20 ADOPTS Judge Peterson's report and recommendation, OVERRULES Plaintiff's objections,
21 and DENIES Plaintiff's motion to strike.

22 On July 16, 2019, Plaintiff initiated this lawsuit by filing a motion for leave to proceed *in*
23 *forma pauperis* ("IFP"). (Dkt. No. 1.) In his complaint, Plaintiff asserts that Defendant United
24 States Department of Education "failed to protect students by enforcing the Family Educational
25 Rights and Privacy Act (FERPA) and the Section 504, in accordance to the most recent Case
26 Processing Manual (CPM) issued on November 19, 2018." (Dkt. No. 1-1 at 4.) He additionally

1 alleges that Defendant University of Southern California (“USC”) “failed to provide reasonable
2 accommodations in accordance to the Americans with Disabilities Act of 1990, as amended, and
3 the Section 504 of the Rehabilitation Act, as amended, which also prohibits retaliation against
4 the individuals.” (*Id.*)

5 The Court recently presided over two lawsuits filed by Plaintiff that alleged nearly
6 identical claims as the instant complaint. *See Ma v. Univ. of S. Cal.*, Case No. C18-1778-JCC
7 (W.D. Wash. 2018); *Ma v. Department of Education, et al.*, Case No. C19-0399-JCC (W.D.
8 Wash. 2019). The Court dismissed Plaintiff’s first lawsuit without prejudice pursuant to
9 Plaintiff’s motion for voluntary dismissal. *See Ma*, Case No. C18-1778-JCC, Dkt. No. 86.
10 Plaintiff filed his second lawsuit a day later and sought leave to proceed IFP. *See Ma*, Case No.
11 C19-0399-JCC, Dkt. No. 1.

12 Based on the report and recommendation of the Honorable Mary Alice Theiler, United
13 States Magistrate Judge, the Court denied Plaintiff’s motion to proceed IFP. *Ma*, Case No. C19-
14 0399-JCC, Dkt. No. 37. In doing so, the Court noted that “Plaintiff both omitted and provided
15 inconsistent information regarding his sources of money or other benefits he receives.” *Id.* The
16 Court also pointed out that Plaintiff had provided information that suggested he was not
17 impoverished: for example, that he was making payments on an almost \$28,000 car loan and that
18 he could pay for a personal accountant. *Id.* The Court concluded that Plaintiff had failed to allege
19 poverty with sufficient particularity, definiteness, and certainty. *Id.* The day after the Court
20 denied Plaintiff’s motion to proceed IFP, Plaintiff paid the \$400 filing fee using a Visa credit
21 card.

22 On July 16, 2019, the Court dismissed Plaintiff’s complaint without prejudice for failing
23 to comply with its order to meet and confer with Defendants. *See Ma*, Case No. C19-0399-JCC,
24 Dkt. No. 80. Later that day, Plaintiff filed the instant complaint with a motion to proceed IFP.
25 (Dkt. Nos. 1, 5.) USC filed a declaration in opposition to Plaintiff’s motion to proceed IFP, with
26 several exhibits purporting to demonstrate that Plaintiff is not impoverished. (*See* Dkt. No. 6.)

1 Plaintiff filed a motion to strike USC's declaration as improper. (Dkt. No. 8.)

2 On August 5, 2019, Judge Peterson issued a report and recommendation that recommends
3 that the Court deny Plaintiff's motion to proceed IFP. (Dkt. No. 9.) Judge Peterson noted that
4 Plaintiff's IFP application "failed to adequately describe his monthly expenses." (*Id.* at 3.) Judge
5 Peterson also noted that "[b]ased on Plaintiff's previous IFP applications, it also appears he has
6 withheld and omitted information indicating he has the ability to pay the filing fee." (*Id.*) Judge
7 Peterson recommended that Plaintiff be required to pay the \$400 filing fee within 30 days or
8 have his case dismissed. (*Id.*) Judge Peterson also recommended that Plaintiff's motion to strike
9 (Dkt. No. 8) be denied.

10 Plaintiff's objections to Judge Peterson's report and recommendation are unavailing. (*See*
11 Dkt. No. 13.) Plaintiff states that because he has received court-appointed counsel in various
12 state court criminal proceedings, he should qualify for IFP status in this case. (*Id.* at 2.) This
13 Court is not bound by a state court's IFP decisions, and the Court is required to consider the
14 information provided by Plaintiff in his IFP applications. The record before the Court continues
15 to demonstrate that Plaintiff has either omitted or provided conflicting information regarding his
16 financial status, and continually disregarded the Court's orders. Plaintiff's current IFP
17 application is incomplete and also provides conflicting information with the IFP applications he
18 has submitted in prior lawsuits. *Compare* Dkt. No. 5, with *Ma*, Case No. C19-0399-JCC, Dkt.
19 No. 1. As one example, in his prior IFP application, Plaintiff stated that he was last employed in
20 December 2018 with a monthly salary of \$898. *Ma*, Case No. C19-0399-JCC, Dkt. No. 1. In his
21 current IFP application, Plaintiff reports having no prior employment. (Dkt. No. 5 at 1.)
22 Plaintiff's representations to this Court have been littered with these types of inconsistencies and
23 omissions. *See Ma*, Case No. C19-0399-JCC, Dkt. No. 37 (detailing the various inconsistencies
24 between Plaintiff's IFP applications).

25 Plaintiff's litigation conduct before this Court has been reprehensible. In his prior lawsuit,
26 the Court sanctioned Plaintiff for serving abusive subpoenas on USC's counsel of record and her

1 family members. *See Ma*, Case No. C19-0399-JCC, Dkt. No. 37. The Court also dismissed
2 Plaintiff's prior lawsuit for failing to meet and confer with Defendants as explicitly ordered by
3 the Court. *Ma*, Case No. C19-0399-JCC, Dkt. No. 80. And on August 6, 2019, the Court's
4 finance department was contacted by Plaintiff's credit card company and informed that Plaintiff
5 had disputed the \$400 payment for the filing fee made in his prior lawsuit after the Court
6 dismissed his case. As a result, the credit card company reversed the \$400 payment made to the
7 Court for the filing fee. Plaintiff's actions place him in direct violation of the Court's prior order
8 denying IFP status and requiring Plaintiff to pay the filing fee. *See Ma*, Case No. C19-0399-JCC,
9 Dkt. No. 37.

10 Plaintiff's actions, like so much of his litigation conduct, are intolerable, and provide an
11 additional reason for why he should not be allowed to proceed IFP in this case. For the foregoing
12 reasons, the Court ORDERS the following:

- 13 1. The Court ADOPTS Judge Peterson's report and recommendation (Dkt. No. 9);
- 14 2. The Court OVERRULES Plaintiff's objections (Dkt. No. 13);
- 15 3. The Court DENIES Plaintiff's motion to strike (Dkt. No. 8);
- 16 4. Plaintiff's motion to proceed IFP is DENIED. Within 14 days of the issuance of
17 this order, Plaintiff shall pay the \$400 filing fee. If Plaintiff fails to timely pay the filing fee, his
18 complaint will be dismissed.

19 5. Within 14 days of the issuance of this order, Plaintiff shall pay the \$400 filing fee
20 owing in *Ma v. Department of Education, et al.*, Case No. C19-0399-JCC (W.D. Wash. 2019). If
21 Plaintiff fails to timely pay the filing fee, his complaint in this case will be dismissed. Plaintiff
22 shall not file any new civil lawsuits in this District until he has paid this filing fee.

23 6. The Clerk is DIRECTED to send a copy of this order to Plaintiff and Judge
24 Peterson.

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2 DATED this 23rd day of August 2019.
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7 John C. Coughenour
8 UNITED STATES DISTRICT JUDGE
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